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LEGAL REQUIREMENTS AND STATUS OF PROTECTED BIRD SPECIES

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Migratory birds found in North America are protected by the Migratory Bird Treaty Act, which implements migratory bird conventions between the United States and Great Britain and the United States and Mexico. An amendment to the Act in 1972 placed all migratory bird species except for exotic species such as Starlings, Pigeons, and House Sparrows in a protected status.

There are sections within the Act that allow for the issuance of permits to take protected species. Those sections that are of the most concern to the pest control operator deal with certain blackbird species that cause agricultural crop damage and those dealing with the issuance of special purpose permits. For instance, under Parts 11 and 16 of Title 50, Code of Federal Regulations, permits may be issued authorizing the killing of protected birds that are committing serious depredations on crops, property, or other interest when the injury is substantial and can be abated only by killing some or all of the offending birds. In addition, all species of Blackbirds, Cowbirds, Grackles, and Crows may be killed without a permit when such birds are committing or about to commit depredations on shade or ornamental trees or agricultural crops.

Therefore, when a pest control operator is involved with a problem whereby the target species is protected by the Treaty, he must secure a special purpose permit before rallying, herding, or killing the species involved. For example, if a pest control operator is asked to stop damage to house siding caused only by woodpeckers and he determines that shooting or trapping the birds is the only solution to the problem, he must secure a special purpose permit from the Federal special agent of the Bureau of Sport Fisheries and Wildlife assigned to the area.

Most bird control projects involve reducing populations of Pigeons, Starlings, and House Sparrows. Under the Treaty, these species can be destroyed unless State or local regulations prohibit such action. However, in many operations, now target protected species, such as Morning Doves, Meadowlarks, Cardinals, etc. may feed at the same locations where a reduction of target species is underway with toxicants. These species are protected and killing them, whether accidental or not, may result in prosecution.

Bird population reduction programs generally involve the use of hazardous material, and it is therefore important that precautions be initiated that will prohibit the destruction of protected species. The following sequence of events should be followed:

1. Survey and determine bird species that may be affected by the control program.
2. Determine if non-lethal methods can be used to alleviate the problem.

3. If lethal methods must be used, first contact local, State, and Federal enforcement officials and discuss the method that will be used to alleviate the problem.
4. Initiate control program with precaution. If toxicants are used, make certain protected species are not affected.
5. Pick up dead birds and incinerate as soon as possible. Insure that toxic bait is not exposed where protected species frequent.

Remember, when controlling non-protected bird populations, you are held responsible for the effects that you may have on protected bird species.